

EXHIBIT “A”

IN THE STATE COURT OF GWINNETT COUNTY IN OFFICE
CLERK STATE COURT
GWINNETT COUNTY, GA
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION LLC

2022 JUL 25 PM 4:31

TIANA P. GARNER, CLERK

CIVIL ACTION
NUMBER: _____

PLAINTIFF

22 C 04099-1

VS.

MICHELLE JIMENEZ

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

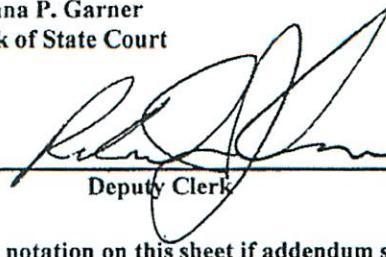
You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

S. Carlton Rouse
Rouse & Company LLC
PO BOX 392105
Snellville, GA 30039

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 25 day of July, 2022.

Tiana P. Garner
Clerk of State Court

By 
Deputy Clerk

INSTRUCTIONS: Attach addendum sheet for additional parties if needed, make notation on this sheet if addendum sheet is used.

General Civil and Domestic Relations Case Filing Information Form

 Superior or State Court of GWINNETTFILED IN OFFICE
CLERK OF THE COURT
GWINNETT COUNTY, GA

For Clerk Use Only

22 C 04099 - 1

2022 JUL 25 PM 4:31

Date Filed 07/25/2022

Case Number

MM-DD-YYYY

TIANA P. GARNER, CLERK

Plaintiff(s)

Flood Brothers Restoration LLC

Last First Middle L. Suffix Prefix

Plaintiff's Attorney

Defendant(s)

Jimenez, Michelle

Last First Middle L. Suffix Prefix

Bar Number _____ Self-Represented

Check One Case Type in One Box

General Civil Cases

- Automobile Tort
- Civil Appeal
- Contract
- Garnishment
- General Tort
- Habeas Corpus
- Injunction/Mandamus/Other Writ
- Landlord/Tenant
- Medical Malpractice Tort
- Product Liability Tort
- Real Property
- Restraining Petition
- Other General Civil

Domestic Relations Cases

- Adoption
- Dissolution/Divorce/Separate Maintenance
- Family Violence Petition
- Paternity/Legitimation
- Support – IV-D
- Support – Private (non-IV-D)
- Other Domestic Relations

Post-Judgment – Check One Case Type

- Contempt
- Non-payment of child support, medical support, or alimony
- Modification
- Other/Administrative

- Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number

Case Number

- I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.
- Is an interpreter needed in this case? If so, provide the language(s) required. _____ Language(s) Required
- Do you or your client need any disability accommodations? If so, please describe the accommodation request.

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FILED IN OFFICE

CLERK'S OFFICE

GWINNETT COUNTY GA

2022 JUL 25 PM 4:31

FLOOD BROTHERS RESTORATION LLC }
Plaintiff, } TIANA P. GARNER, CLERK
v. } CIVIL ACTION
MICHELLE JIMENEZ } CASE NO.
Defendants. } 22 C 04099-1
22 C 04099-1
22 C 04099-1

COMPLAINT AND JURY DEMAND

COMES NOW, Flood Brothers Restoration LLC (hereafter "Plaintiff") and files this Complaint against Defendant, Michelle Jimenez as follows:

1.

Upon information and belief, Defendant was at all relevant times, i.e., during the time of performance under contract, a resident of Georgia and subject to the jurisdiction and venue of this Court.

2.

On or about September 14, 2018, Michelle Jimenez retained Flood Brothers Restoration LLC to perform water mitigation services at her home.

3.

After speaking with Jimenez and discussions with Universal Insurance, Flood Brothers provided mitigation services and neither Michelle Jimenez nor Universal balked or complained in writing and/or otherwise communicated any complaints about the quality or timeliness of its work.

4.

Plaintiff relied upon the direct contact with Michelle Jimenez and communications with Universal Insurance with respect to the fulfillment of the terms of the Parties' contract.

5.

As a direct and proximate result of Jimenez and Universal's request for water mitigation services and the performance by Plaintiff related thereto, Plaintiff submitted a bill/invoice in the amount of \$21,662.40 to Michelle Jimenez and to Universal Insurance.

6.

To date, Jimenez, by and through Universal Insurance, only satisfied a partial amount of the aforementioned invoice in the amount of \$18,000.00.

7.

Plaintiff made multiple, unsuccessful attempts to secure full payment from Jimenez and/or Universal Insurance prior to contacting legal counsel or initiating a civil action to no avail.

8.

Jimenez and/or Universal Insurance have not fully compensated Plaintiff for its work and, as a result, Plaintiff filed this civil action.

9.

Plaintiff initiated an earlier civil action, in the Gwinnett Magistrate

Court, to recover for unpaid amounts owed in 2019.

10.

Plaintiff initiated/transferred its civil action to Gwinnett State Court to recover for unpaid amounts owed in the latter part of 2019.

11.

Throughout the remainder of 2019 and several months of 2020, Plaintiff retained a process server (DGR Legal, Inc., Morris Plains, NJ) to identify and serve Jimenez with a copy of the pending complaint and summons (Docket No. 19C-06796-S4).

12.

Plaintiff served Jimenez by leaving a copy of the complaint and summons with a co-resident, Marcellus Raines on May 8, 2020.

13.

On June 4, 2020, Jimenez filed an affidavit wherein she disclaimed that she received a copy of the complaint and summons.

14.

On Thursday October 1, 2020, additional attempts were made by Rod Troupe, of Finley Consulting & Investigations, Inc., to serve Jimenez at the 2080 Bowline Loop, Woodbridge, VA 22192 address. At that time, Jimenez identified herself through the electronic doorbell camera. Unfortunately, Jimenez refused to answer the door to receive the complaint and summons.

15.

On or about January of 2021, Jimenez lived at 2080 Bowline Loop, Woodbridge, CA 22192. On Saturday, January 9th, Tuesday January 12th, and Wednesday, January 13th, attempts were made to serve Jimenez with a copy of the complaint and summons by Rod Troupe, of Finley Consulting & Investigations, Inc.

16.

At some point during 2020 and 2021, Jimenez either owned, leased, or used two vehicles, i.e. 2017 Volvo S90 and a 2015 Mercedes Benz ML 350.

17.

In order to personally serve Jimenez a copy of the complaint and summons, it incurred legal expense and costs.

COUNT ONE: BREACH OF CONTRACT

18.

Plaintiff incorporates paragraphs 1-17 as if separately stated herein.

19.

Defendant, Michelle Jimenez entered into a contract for water mitigation services from Flood Brothers Restoration and agreed to Plaintiff's terms and conditions with respect to said work.

20.

Universal Insurance spoke directly to Plaintiff and advised Plaintiff as to what was required of it in order to be paid following the completion of the

work to Jimenez's property, e.g., timely work, itemizing a bill for all activity, provide pictures detailing the progress of work, take multiple temperature/moisture readings, etc.

21.

Following the completion of its work, Michelle Jimenez, provided a written assignment of rights and authorized direct payment from Universal Property & Casualty Insurance Co. to Plaintiff.

22.

Plaintiff fully performed its duties under contract with Jimenez and/or with Universal and submitted multiple requests for payment without success prior to initiating this legal action.

23.

Plaintiffs incurred avoidable legal expense associated with Jimenez and Universal's refusal to satisfy their obligations under contract.

24.

Jimenez acknowledged Universal's responsibility to pay Plaintiff for its work in her November 16, 2018 email to Universal. In particular, Jimenez wrote to Skyler Felder directly to ask why Plaintiff was not paid. (See Ex. A – Jimenez Email).

COUNT TWO: ATTORNEY FEES

25.

Jimenez and Universal Insurance, on her behalf as her insurer, were stubbornly litigious, intentionally wasteful and abusive by protracting this matter to the point where a formal lawsuit needed to be filed. Neither Jimenez or Universal Insurance have a justifiable or legal basis for failing to pay Plaintiff for prior work performed, as described in paragraphs 1-24. Accordingly, Plaintiff requests damages and such attorney fees pursuant to O.C.G.A. §§ 13-6-11; 9-15-14 as are justified.

WHEREFORE, Plaintiffs demands:

- (a) Judgment for damages in the amount determined by the enlightened conscience of an impartial jury of twelve;
- (b) Reasonable attorney's fees and costs related to this action in the amount of no less than \$70,699.30, which represents the rising expense associated with this matter;
- (c) Other adequate compensation as justice requires.

Respectfully submitted this 25th day of July 22.

/s/ S. Carlton Rouse, Esq.
S. Carlton Rouse, Esq.
Georgia Bar No. 003583
Attorney for Plaintiff

ROUSE & COMPANY, LLC
3375 Centerville Hwy
P.O. Box 392105
Snellville, GA 30039-9997

(678)360-0403(t)
(678)658-9093(f)
s.carlton@rousecolaw.com



S. Carlton Rouse <s.carlton@rousecolaw.com>

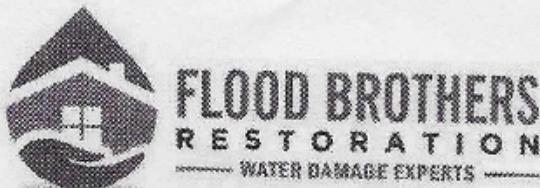
FW: GA18-0102238 JIMENEZ

1 message

fbr1randy@gmail.com <fbr1randy@gmail.com>
To: "S. Carlton Rouse" <s.carlton@rousecolaw.com>

Tue, Sep 3, 2019 at 12:09 PM

Randy Fowler



Office: (770) 985-2748

Cell: (404) 484-4954

www.FloodBrothersRestoration.com



From: Michelle Jimenez < michelle.jimenez1516@gmail.com >
Sent: Monday, December 3, 2018 12:24 PM
To: Randall Fowler < fbr1randy@gmail.com >
Cc: cd0205@universalproperty.com; Skylar Felder < sf0209@universalproperty.com >; ferry@floodbrothersrestoration.com; becky@floodbrothersrestoration.com; jf1109@universalproperty.com
Subject: Re: GA18-0102238 JIMENEZ

ANY UPDATES????????????????????????? I HAVE NOT RECEIVED A CHECK FOR FLOOD BROTHERS.

On Fri, Nov 16, 2018 at 1:37 PM Michelle Jimenez < michelle.jimenez1516@gmail.com > wrote:

Mr. Felder,



Any news on the check for Flood Brothers? Mr. Fowler and his crew were onsite within 30 minutes of my call. Their team worked fast and possibly saved your company thousands of dollars due to the quick response. The contractors have been paid when in reality Flood Brothers should have possibly been paid first. Is there anything that I can do to help your company speed up the process?

Respectfully

Michelle Jimenez

On Tue, Nov 6, 2018 at 9:14 PM <fbr1randy@gmail.com> wrote:

Charles,

When we agreed upon a price on October 2nd 2018, this was a discounted rate to get the claim closed. Our original invoice was only charging for 5 days of drying, the adjuster for your company was on site and noted the property still needed equipment going into that 5th day if not longer, we had equipment on site for 7 days. On the summary page containing the \$18,000.00 total, you will clearly see the following. "This is a settlement discount, only valid if paid within 10 days." It has now been 35 days from this email. It is my understanding the check has not been approved or sent.

If we do not receive payment, available for immediate deposit, in our office by November 16th 2018 the settlement discount will no longer be accepted. At that time, \$21,638.69 will be due within 8 days. We will remove all discounts and bill for the equipment that was in the property for 7 days, with justifiable hygrometer readings, thermal pictures and other supporting documentation.

If payment is not received within 60 days of being billed, legal action will be taken.

Regards,

Randy Fowler

Office: (770) 985-2748

Cell: (404) 484-4954

www.FloodBrothersRestoration.com



Virus-free. www.avast.com

12/6/2022 8:01 PM

TIANA P. GARNER, CLERK

AFFIDAVIT OF SERVICE

Case: 22CO4099-1	Court: State Court of Gwinnett County	County: Gwinnett County, GA	Job: 8040265
Plaintiff / Petitioner: Flood Brothers Restoration LLC	Defendant / Respondent: Michelle Jiminez		
Received by: Silver Star Investigations LLC	For: YBS Process		
To be served upon: Michelle Jiminez			

I, Michael Mantyla, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein.

Recipient Name / Address: Michelle Jiminez, 104 Whitney PI NE, Leesburg, VA 20176

Manner of Service: Personal/Individual, Dec 5, 2022, 8:50 pm EST

Documents: Complaint, Summons, Acknowledgment

Additional Comments:

1) Unsuccessful Attempt: Dec 5, 2022, 8:54 am EST at 104 Whitney PI NE, Leesburg, VA 20176
Rang bell and knocked on door with no response. White dodge pickup PA tag ZVE7846 in driveway.

2) Successful Attempt: Dec 5, 2022, 8:50 pm EST at 104 Whitney PI NE, Leesburg, VA 20176 received by Michelle Jiminez. Age: 40s; Ethnicity: Hispanic; Gender: Female; Weight: 130; Height: 5'5"; Hair: Black; Eyes: Brown;

Recipient answered the door, I asked if she was Michelle Jiminez. Recipient then paused and identified herself as "Sue". Based on her behavior and my experience as a private investigator, I believe she was attempting to evade service. I am familiar with a photograph of recipient from social media and can identify recipient on that basis. I informed recipient that I was delivering service and placed it inside the door within her view prior to her shutting the door to her residence. I observed mail in the mailbox in recipient's name, as well as mail addressed to the parents of Julian E. Jiminez Bennett. I observed two vehicles in the driveway, a white dodge pickup PA tag ZVE7846 and a black Ford SUV, VA tag UTZ4976.



Dec 6, 2022
Date
Michael Mantyla

Silver Star Investigations LLC
20908 Pioneer Ridge Terrace
Ashburn, VA 20147
(703) 687-5062

State/Commonwealth of

City County of

Subscribed and sworn to before me by the affiant who is personally known to me.

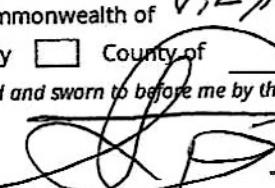
Notary Public

Dec 6, 2022

Date

Commission Expires Reg. No.



Virginia

Lorraine
9/30/23 7812645

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,
LLC,

Plaintiff,

v.

MICHELLE JIMENEZ,

Defendant.

Civil Action
File No.: 22-C-04099-S1

DEFENDANT MICHELLE JIMENEZ' DEFENSES AND ANSWER

COMES NOW, Defendant Michelle Jimenez, named Defendant in the above-styled action, and files the following Defenses and Answer to Plaintiff's Complaint and shows the Court as follows:

FIRST DEFENSE

The Complaint fails to set forth a claim against this Defendant upon which relief can be granted.

SECOND DEFENSE

For a Second Defense, the Defendant answers the numbered paragraphs of the Complaint as follows:

1.

Defendant denies the allegations contained in Paragraphs 1, 6, 8, 12, 14, 23 and 25 of the Complaint.

2.

Defendant admits the allegations contained in Paragraphs 3, 13, 16 and 24 of the Complaint.

3.

Defendant denies, as pled, the allegations contained in Paragraphs 5 and 22 of the Complaint.

4.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraphs 4, 7, 9, 10, 11, 17, 20 and 21 of the Complaint and, therefore, cannot admit or deny same.

5.

In response to Paragraph 2 of Plaintiff's Complaint, Defendant admits she retained Flood Brothers Restoration LLC to perform water mitigation services at her home. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining averments contained in Paragraph 2 of the Complaint.

6.

In response to Paragraph 15 of Plaintiff's Complaint, Defendant denies that on or about January of 2021, Defendant lived at 2080 Bowline Loop, Woodbridge, CA 22192. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining averments contained in Paragraph 15 of the Complaint.

7.

In response to Paragraph 18 of Plaintiff's Complaint, Defendant repeats and re-alleges its responses to Plaintiff's Complaint, Paragraphs 1-17 as if fully stated herein.

8.

In response to Paragraph 19 of Plaintiff's Complaint, Defendant admits a contract was entered. Defendant denies as pled the remaining allegations of Paragraph 19 of Plaintiff's Complaint.

Any allegation of the Complaint not admitted, denied or otherwise responded to above is hereby denied.

THIRD DEFENSE

Defendant is not liable to Plaintiff because Defendant breached no duty owed to Plaintiff in regard to the occurrence giving rise to this Complaint.

FOURTH DEFENSE

Plaintiff, by the exercise of ordinary care, could have avoided the consequences of any act or failure to act of Defendant.

FIFTH DEFENSE

Plaintiff's injuries, if any, were caused by an unforeseeable intervening third party tortfeasor and/or the acts and failure to act of persons or entities other than Defendant.

SIXTH DEFENSE

The Complaint should be dismissed for lack of jurisdiction over the person of this Defendant and improper venue.

SEVENTH DEFENSE

Plaintiff's Complaint is barred by accord and satisfaction.

EIGHTH DEFENSE

Plaintiff's Complaint is barred by res judicata.

NINTH DEFENSE

Plaintiff's Complaint is barred by collateral estoppel.

TENTH DEFENSE

Plaintiff's Complaint should be dismissed for failure to join a party under O.C.G.A.

9-11-19.

WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed with costs of this action cast against the Plaintiff.

This 4th day of January, 2023.

Goodman McGuffey LLP
Attorneys for Defendant Michelle Jimenez

By: /s/ Paul J. Spann
ADAM C. JOFFE
GA State Bar No.: 391920
ajoffe@GM-LLP.com
PAUL J. SPANN
GA State Bar No.: 153214
PSpann@GM-LLP.com
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax

DEFENDANT DEMANDS
TRIAL BY JURY OF TWELVE

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,
LLC,

Plaintiff,

Civil Action
File No.: 22-C-04099-S1

v.

MICHELLE JIMENEZ,

Defendant.

CERTIFICATE OF SERVICE

This is to certify that I have this day served all counsel and parties of record with a copy of DEFENDANT MICHELLE JIMENEZ'S DEFENSES AND ANSWER by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) as follows:

S. Carlton Rouse, Esq.
Rouse & Company, LLC
P.O. Box 392105
Snellville, GA 30039-9997
s.carlton@rousecolaw.com
Attorney for Plaintiff

This 4th day of January, 2023.

By: /s/ Paul J. Spann
PAUL J. SPANN
GA State Bar No. 153214
PSpann@GM-LLP.com
Goodman McGuffey LLP
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,
LLC,

Plaintiff,

v.

MICHELLE JIMENEZ,

Defendant.

Civil Action
File No.: 22-C-04099-S1

DEMAND FOR JURY
TRIAL BY TWELVE (12)

DEFENDANT MICHELLE JIMENEZ'
DEMAND FOR JURY TRIAL OF TWELVE

COMES NOW, Defendant Michelle Jimenez, by and through her attorney of record, and demands that the above-captioned case be tried by a jury of twelve, pursuant to O.C.G.A. § 15-12-122.

This 4th day of January, 2023.

Respectfully submitted,

Goodman McGuffey LLP
Attorneys for Defendant Michelle Jimenez

By: /s/ Paul J. Spann
ADAM C. JOFFE
GA State Bar No. 391920
ajoffe@GM-LLP.com
PAUL J. SPANN
GA State Bar No. 153214
PSpann@GM-LLP.com
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
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IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

FLOOD BROTHERS RESTORATION,
LLC,

Plaintiff,

Civil Action
File No.: 22-C-04099-S1

v.

MICHELLE JIMENEZ,

Defendant.

CERTIFICATE OF SERVICE

This is to certify that I have this day served all counsel and parties of record with a copy of this Defendant Michelle Jimenez' Demand for Jury Trial of Twelve by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) as follows:

S. Carlton Rouse, Esq.
Rouse & Company, LLC
P.O. Box 392105
Snellville, GA 30039-9997
s.carlton@rousecolaw.com
Attorney for Plaintiff

This 4th day of January, 2022.

/s/ Paul J. Spann
PAUL J. SPANN
GA State Bar No. 153214
PSPann@GM-LLP.com
Goodman McGuffey LLP
3340 Peachtree Road NE, Suite 2100
Atlanta, GA 30326-1084
(404) 264-1500 Phone
(404) 264-1737 Fax